

REMARKS

1. *Claim Rejections -- 35 U.S.C. § 112*

Claim 25 stands rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

In response, Applicant has removed the "works in conjunction with..." language, allowing the claim to properly conform with 35 U.S.C. § 112.

2. *Claim Rejections -- 35 U.S.C. § 103*

Claims 1, 4-12, 24 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the following publications: Mumford (1998) (hereafter "Mumford") in view of Brock et al. (1991) (hereafter "Brock") and in view of Gagnon (1997) (hereafter "Gagnon"). In addition, Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Mumford in view of Brock and in view of Gagnon as applied to claims 1, 4-12, 24 and 26, and further in view of Weil (2000) (hereafter "Weil"). Applicant appreciates the concerns raised by the Examiner, but respectfully submits that in light of the amendment to the claims as set forth above and the arguments presented below, neither Mumford, Brock, Gagnon, nor Weil either individually or collectively, render the claims of the present invention obvious.

In response, Applicant submits that independent claims 1 and 9 are not rendered unpatentable by Mumford in view of Brock and in view of Gagnon. More specifically, neither Mumford, Brock, nor Gagnon teach or suggest the processes recited in amended claims 1 and 9. For example, although Mumford teaches using a liquid squeezed from the

Morinda citrifolia fruit, amended claim 1 teaches a multi-stepped process including: cleaning the *Morinda citrifolia* fruit following harvesting; placing the fruit on elevated equipment and allowing the fruit to ripen from 0 to 14 days; inspecting the fruit for spoilage and ripeness after ripening; placing the fruit in a mechanical separator for separating the seeds and peel from the juice; filtering the pulp from the juice using filtering equipment; mixing the juice with at least one other ingredient to obtain a finished dietary supplement; and pasteurizing the finished dietary supplement at a minimum temperature of 180°F. Consequently, Mumford's reference to using liquid squeezed from the *Morinda citrifolia* fruit does not teach or suggest using the above-mentioned, multi-stepped method of processing *Morinda citrifolia*. Also, Weil's reference to adding elderberry to *Morinda citrifolia* does not teach or suggest using the multi-stepped method of processing *Morinda citrifolia*.

In addition, amended claim 9 teaches consuming three ounces of a liquid composition comprising processed *Morinda citrifolia*, whereas Mumford only teaches consuming two ounces of noni juice per day. As a result, Mumford teaches away from the method of claim 9. Also, while it is correct that milk and juices are routinely pasteurized, pasteurization is merely one of several steps of the method of claim 1.

Dependent claims 4-8, 10-12 and 24-26 place further limitations on what is otherwise argued allowable subject matter. Therefore, Applicant respectfully submits that these claims also stand in a condition for allowance.

Based on the foregoing, Applicant submits that the prior art does not render the claims of the present invention obvious, particularly as amended to recite more specific

and definite limitations. As such, Applicant respectfully requests that the claims of the application be reconsidered and that the rejection under § 103 be withdrawn.

CONCLUSION


Based on the foregoing, Applicant respectfully submits that the deficiencies in the application have been corrected and that the proposed claims are not rendered obvious by the prior art references cited by the Examiner. As such, Applicant believes that the claims are now in a condition for allowance, and action to that end is respectfully requested.

If any impediments to the allowance of this application for patent remain after the above amendments and remarks are entered, the Examiner is invited to initiate a telephone conference with the undersigned attorney of record.

DATED this 20 day of August, 2003.

Respectfully submitted,

KIRTON & McCONKIE


Michael F. Krieger
Attorney for Applicant
Registration No. 35,232

KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple Street
Salt Lake City, Utah 84111
(801) 328-3600 telephone
(801) 321-4893 facsimile

CLJ:bo

Document2